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OFFICE OF PETITIONS

Applicant: Devenney et al.
Appl. No.: 10/849,291
Filing Date: May 19, 2004
Title: PLATINUM-INDIUM-IRON/TUNGSTEN/MANGANESE FUEL CELL
ELECTROCATALYST
Attorney Docket No.: (H103-1188-US02)(2002-094R) SMX 2017.2
Pub. No.: US 2005/0037920 A1
Pub. Date: February 17, 2005

This is in response to the "Request for Corrected Publication under 37 CFR 1.221(b)," which was received on March 1, 2005.

The request is DISMISSED.

The instant request is that the patent application publication be republished because the assignee information on the front page of the publication was published incorrectly as it improperly included "MEMC Electronic Materials, Inc.," as an assignee.

37 CFR 1.221(b) is applicable "only when the Office makes a material mistake which is apparent from Office records . . . Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.¹

The instant request does not identify a material mistake in the publication made by the Office. While the inclusion of "MEMC Electronic Materials, Inc.," as an assignee was an Office mistake, it is not a material mistake as required by 37 CFR 1.221(b). The error does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an

¹Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239 Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

applicant may seek to enforce upon issuance of a patent.

On July 17, 2004, a Filing Receipt was mailed, which properly listed the assignment information as Symyx Technologies and Honda Giken Kogoyo Kabushiki Kaisha. On November 10, 2004, a second Filing Receipt was mailed, which added MEMC Electronic Materials, Inc. in response to applicants letter dated October 19, 2004, which stated that an assignment for "MEMC Electronic Materials, Inc." was being faxed to the Office. To avoid this type of problem in the future, applicant's representative should make a request for a corrected filing receipt using the facsimile number (703-746-9195) on the Filing Receipt.

It has been noted that the declaration submitted by applicant is improper, as it is not properly signed by all of the inventors, as Applicant submitted parts of at least two declarations, but not complete copies. While each inventor need not execute the same oath or declaration, each oath or declaration executed by an inventor must contain a complete listing of all inventors so as to clearly indicate what each inventor believes to the appropriate inventive entity. Applicant must submit complete copies of each declaration signed by the applicants. See MPEP 201.03.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application in compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

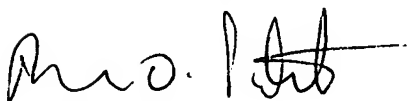
Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions should be addressed as follows:

By mail to: Mail Stop PGPUB
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: 703-872-9306

The application will be examined in due course.

Inquires concerning this communication should be directed to Mark Polutta at (571) 272-7709.



Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy